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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,503	12/07/2000	Jiebo Luo	81594MSS	9518

7590 12/14/2004

Patent Legal Staff
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EXAMINER

BAKER, CHARLOTTE M

ART UNIT	PAPER NUMBER
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2626

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/732,503	Applicant(s) LUO ET AL.	
	Examiner Charlotte M Baker	Art Unit 2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 2-8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see remarks, pages 5-8, filed 08/10/2004, with respect to the rejections of claims 2-8 under 35 USC § 103(a) have been fully considered and are persuasive. Therefore, the rejections regarding claims 2-8 have been withdrawn.

2. Applicant's arguments filed 08/10/2004 with respect to the rejection of claim 1 under 35 USC § 103(a) have been fully considered but they are not persuasive.

Applicant argues on page 4 of the remarks that neither Kinjo nor Ueda teach a main subject belief map and using it to produce a modified digital image (see paragraph 1). The applicant further describes the claimed belief map as being a probabilistic map (not binary) that indicates where the likely main subject is located and how likely the location is true (see paragraph 2). The applicant then states that Kinjo's main portion refers to face regions in an image and uses a binary mask and cites column 20, lines 31-41 for support and that Kinjo uses "probability only" to determine a facial region, then discards it and cites column 22, lines 18-30 (see paragraphs 1 and 3).

Upon further review, the examiner disagrees. Since Kinjo uses probability to determine a subject (all be it a facial region), this still reads on claim 1. The use of probability reads on the main subject belief map, which as described by applicant is probabilistic. Regarding the assertion that Kinjo uses a binary mask, nowhere in Kinjo has the examiner found support for applicant's statement. Thus, the rejection of claim 1 over Kinjo in view of Ueda remains.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kinjo (5,978,100) in view of Ueda (6,714,314). Kinjo teaches conversion into a digital image (column 8, lines 50-67 and column 9, lines 1-13), which reads on “producing a digital image of a customer’s photographic image”. Kinjo teaches the extraction of a main portion of a film image (column 10, lines 23-26), which reads on “producing a main subject belief map from the digital image”. Kinjo teaches the use of the extraction of a main portion to display the resultant image (column 10, lines 23-47), which reads on “employing the main subject belief map to produce a modified digital image”. Kinjo teaches the ability to send the digital image to a printer (column 11, lines 51-58), which reads on “producing a print of the digital image”. Kinjo teaches the printing of an image following modifications (column 11, lines 30-35), which reads on “producing a print of the modified digital image”. Kinjo fails to address “delivering both prints to the customer”. Ueda teaches providing both the original and the modified print (column 9, lines 44-48), which reads on “delivering both prints to the customer”. It would have been obvious to a person skilled in the art at the time of the invention to modify Kinjo to include Ueda to provide the customer a print of the digital image, and a print of the modified digital image to preserve the digital image in the event that further modifications are desired at a later date.

Allowable Subject Matter

1. Claims 2-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charlotte M Baker whose telephone number is (703) 306-3456. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly A Williams can be reached on (703) 305-4863. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CMB
cmb

YGA Williams
KIMBERLY WILLIAMS
SUPERVISORY PATENT EXAMINER